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606 TOWNSEND LANSING, MI 48933 • 517/371-5100 • FAX 517/371-2056
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October 27, 2010

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General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Benishek for Congress

MUR # 6421

Dear General Counsel:

This is a complaint against the Benishek for Congress Committee for violation of federal election law and Commission regulations. It is clear that Mr. Benishek has violated 11 CFR 100.93, a provision governing "Campaign Travel," by repeatedly using non-commercial aircraft for campaign travel. Accordingly, Mr. Benishek should be penalized by the Commission for his repeated acceptance and usage of non-commercial air travel as a candidate for the Congress.

The Law

11 CFR 100.93(c)(2) reads in pertinent part:

"Travel by or on behalf of House candidates and their leadership PACs. Except as otherwise provided in paragraphs (e) and (g) of this section, a campaign traveler who is a candidate for election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, or a person traveling on behalf of any such candidate or any authorized committee or leadership PAC of such candidate, is prohibited from non-commercial travel on behalf of any such candidate or any authorized committee or leadership PAC of such candidate."

Paragraphs (e) and (g) articulate two exceptions for non-aircraft transportation and government conveyances, respectively.

Federal Register, Vol. 74, No. 233 – Notice 2009-27 reads, in part, "New 11 CFR 100.93(c)(2) prohibits House candidates, and individuals traveling on behalf of House candidates, their authorized committees or leadership PACs, from engaging in non-commercial campaign travel on aircraft. This prohibition



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cannot be avoided by payments to the service provider, even by payments from the personal funds of a House candidate."

The Facts

On information and belief, in a published article on October 26, 2010, the Petoskey News Review, a Michigan newspaper, reported the following:

"A www.facebook.com posting on the Benishek for Congress webpage showed an airplane on a runway with the caption: "Headed out to the Home Show in Munising. See ya there!"

The registration for the plane shows the owner to be the St. George Glass Co.

The company's owner Steven Zurcher, an Upper Peninsula Republican delegate, did not return a request for comment."

Copy attached.

While the Petoskey News Review published report substantiates a recent violation by Mr. Benishek, he did, through his campaign's response to the Petoskey News Review, admit to prior violations since March 2010:

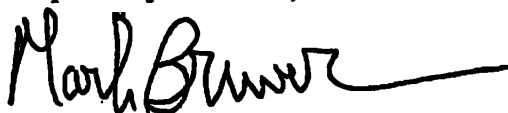
"Our review of the candidate's travel since March suggests two flights which, although arguably personal in nature, may need to be reimbursed at a commercial charter rate," said Trent Benishek, the Benishek committee spokesman."

11 CFR 100.93(c)(2) is a complete prohibition on non-commercial travel – reimbursement is not permitted nor does it excuse a violation.

Conclusion

The above documentation demonstrates that Mr. Benishek has repeatedly violated federal election law and Commission regulations prohibiting travel using non-commercial aircraft. Benishek for Congress should be penalized accordingly.

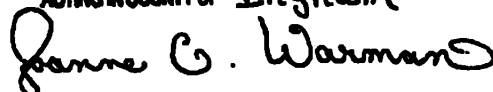
Respectfully submitted,



Mark Brewer, Chair
606 Townsend
Lansing, MI 48933
517/371-5410

Subscribed and sworn to before me
on this 27 day of October, 2010.

JONNEE C. WARMAN
NOTARY PUBLIC, STATE OF MI
COUNTY OF INGHAM
MY COMMISSION EXPIRES NOV 10, 2013
ACTING IN COUNTY OF Ingham



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Facebook | Benishchek for Congress's Photos - Wall Photos

http://www.facebook.com/photos.php?fbid=108482875729846&pa=1

Google

Sat 1/19/08

Benishchek for Congress's Photos - Wall Photos

Photo 3 of 8 Back to Album · Benishchek for Congress's Photos · Benishchek for Congress's Profile

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Headed out to the Home Show in Lansing. See ya there!

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Stupak-seat race: Dems accuse Benishek of unclaimed plane rides; GOP says Dems backing Wilson as spoiler

Free Press Poll: Stupak seat race too close to call

By Brandon Hubbard News-Review Staff Writer

1:40 PM EDT, October 26, 2010

Writer Oscar Wilde once quipped, Democracy means simply the bludgeoning of the people by the people for the people.

Maybe Oscar wasn't privy to the 1st Congressional race, but he might have been onto something.

The candidates are working fast and nasty to put some distance in the race to fill the open seat being vacated by retiring Democratic Congressman Bart Stupak.

A Monday poll showed Republican Dan Benishek and Democrat Gary McDowell are statistically even with a week left before voters head to the polls.

The Detroit Free Press sponsored poll by EPIC-MRA shows Benishek, a Crystal Falls surgeon, leads Gary McDowell, a term-limited state representative 42 to 40 percent. The poll, which contacted 400 probable voters in the 1st Congressional District, has a 4.9 percent margin of error -- making the race a tossup.

Rose City Independent Glenn Wilson, the poll shows, is pulling about 8 percent of the vote.

DEMS SAY BENISHEK USED A PLANE

Accusations have also been surfacing about the candidate campaign finance reports filed last week -- by the parties and the Federal Election Commission.

The FEC recently questioned a \$25,000 contribution made by Wilson's company, Michigan Access, to his campaign committee. However, Wilson told the News-Review on Monday that the funding was inaccurately recorded in the report and has since been clarified.

The McDowell committee raised questions of its own about whether or not Republican Benishek had used an airplane to campaign in the 31-county Congressional district with claiming the expenditure on its report.

A www.facebook.com posting on the Benishek for Congress webpage showed an airplane on a runway with the caption: "Headed out to the Home Show in Munising. See ya there!"



The registration for the plane shows the owner to be the St. George Glass Co.

The company's owner Steven Zurcher, an Upper Peninsula Republican delegate, did not return a request for comment.

However, the Benishek committee did.

"Our review of the candidate's travel since March suggests two flights which, although arguably personal in nature, may need to be reimbursed at a commercial charter rate," said Trent Benishek, the Benishek committee spokesman. "The candidate has never run for office before, and our operation was not aware of the recent change in regulations regarding air travel, and consequently may have inadvertently erred in this regard. In an abundance of caution, our accountant is contacting the FEC to correct any reporting errors. We will take all steps necessary to ensure full compliance with reporting and reimbursement requirements."

DEMS GO ON 'ATTACK' AGAINST WILSON

Late last week the Democrats began targeting Wilson with a mailer in the eastern Lower Peninsula. The ad, paid for by the Democratic State Central Committee, states: "Independent candidate Glenn Wilson wants to represent us in Congress, but he would drastically reduce the role of Washington"

Set with an American flag background, a colonial soldier in the silhouette and the official Wilson headshot, the ad looks less like an political attack and more like a call-to-action to stir up Tea Party and conservative voters.

The Wilson committee issued a statement calling the mailer an indication the Independent was a "serious candidate."

"To this point, both campaigns were so busy denigrating each other that they had neither the time nor inclination to pay any attention to our campaign," Wilson said in the statement. "Now, they're both looking over their respective shoulders."

Despite Republican accusations that this is a play to create a spoiler candidate, the Democrats continue to suggest Wilson is a legitimate candidate.

"We've always considered this to be a three-way race," said Michigan Democratic Party chairman Mark Brewer. "With what's going on in the district, the poll numbers, the other indications continue to show -- at least to us -- that Glenn Wilson has appeal to Independents, Democrats and Republicans."

Brewer said it seems Wilson "has got some really strong appeal to some Republicans who are frustrated with what they are seeing out of Benishek after the primary."

Brewer added that internal polling changes had not caused the party to take out the ad at this time.

A Michigan Republican Party spokesman did not return a request for comment on the Wilson ad.

NO TEA PARTY FOR NORTHERN MICHIGAN

Political Action Committee the Tea Party Express also announced this week it is planning to have its tour bus make stops in Michigan. However, the bus is expected to skip the 1st Congressional District and only glance through southeast Michigan with stops in Jackson and Troy, despite previous rallies of 500 to 1,000 participants in Petoskey and Traverse City.

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